CLINTON IMPEACHMENT/Article II: Obstruction of Justice

SUBJECT: **Impeachment trial of William Jefferson Clinton for perjury and obstruction of justice. Article II.**

ACTION: NOT GUILTY, 50-50

SYNOPSIS: On December 19, 1998, the House of Representatives impeached (indicted) President Clinton for perjury and obstruction of justice based on his actions and statements in relation to a Federal civil rights sexual harassment lawsuit that was filed against him by a former employee, Paula Corbin Jones.

Article II, Obstruction of Justice. "In his conduct while President of the United States, William Jefferson Clinton, in violation of his constitutional oath faithfully to execute the Office of President of the United States and, to the best of his ability, preserve, protect, and defend the Constitution of the United States, and in violation of his constitutional duty to take care that the laws be faithfully executed, has prevented, obstructed, and impeded the administration of justice, and has to that end engaged personally, and through his subordinates and agents, in a course of conduct or scheme designed to delay, impede, cover up, and conceal the existence of evidence and testimony related to a Federal civil rights action brought against him in a duly instituted judicial proceeding. The means used to implement this course of conduct or scheme included one or more of the following acts: (1) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to execute a sworn affidavit in that proceeding that he knew to be perjurious, false and misleading. (2) On or about December 17, 1997, William Jefferson Clinton corruptly encouraged a witness in a Federal civil rights action brought against him to give perjurious, false and misleading testimony if and when called to testify personally in that proceeding. (3) On or about December 28, 1997, William Jefferson Clinton corruptly engaged in, encouraged, or supported a scheme to conceal evidence that had been subpoenaed in a Federal civil rights action brought against him. (4) Beginning on or about December 7, 1997, and continuing through and including January 14, 1998, William Jefferson Clinton intensified and succeeded in an effort to secure job assistance to a witness in a Federal civil rights action brought against him in order to corruptly prevent the truthful testimony of that witness in that proceeding at a time when the truthful testimony of that witness would have been harmful to him. (5) On January 17, 1998, at his deposition in a Federal civil rights action brought against him, William Jefferson Clinton corruptly allowed his attorney to make false and misleading statements to a Federal judge

(See other side)

YEAS (50)

Republicans (50 or 91%)		Democrats (0 or 0%)
Abraham	Helms	
Allard	Hutchinson	
Ashcroft	Hutchison	
Bennett	Inhofe	
Bond	Kyl	
Brownback	Lott	
Bunning	Lugar	
Burns	Mack	
Campbell	McCain	
Cochran	McConnell	
Coverdell	Murkowski	
Craig	Nickles	
Crapo	Roberts	
DeWine	Roth	
Domenici	Santorum	
Enzi	Sessions	
Fitzgerald	Shelby	
Frist	Smith, Bob	
Gorton	Smith, Gordon	
Gramm	Stevens	
Grams	Thomas	
Grassley	Thompson	
Gregg	Thurmond	
Hagel	Voinovich	
Hatch	Warner	

NAYS (50)

Republicans (5 or 9%)	Democrats (45 or 100%)	
Chafee	Akaka	Kennedy
Collins	Baucus	Kerrey
Jeffords	Bayh	Kerry
Snowe	Biden	Kohl
Specter	Bingaman	Landrieu
	Boxer	Lautenberg
	Breaux	Leahy
	Bryan	Levin
	Byrd	Lieberman
	Cleland	Lincoln
	Conrad	Mikulski
	Daschle	Moynihan
	Dodd	Murray
	Dorgan	Reed
	Durbin	Reid
	Edwards	Robb
	Feingold	Rockefeller
	Feinstein	Sarbanes
	Graham	Schumer
	Harkin	Torricelli
	Hollings	Wellstone
	Inouye	Wyden
	Johnson	

NOT VOTING (0)

Republicans (0)	Democrats (0)

EXPLANATION OF ABSENCE:
1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS:
AY—Announced Yea
AN—Announced Nay
PY—Paired Yea
PN—Paired Nay

characterizing an affidavit, in order to prevent questioning deemed relevant by the judge. Such false and misleading statements were subsequently acknowledged by his attorney in a communication to that judge. (6) On or about January 18 and January 20-21, 1998, William Jefferson Clinton related a false and misleading account of events relevant to a Federal civil rights action brought against him to a potential witness in that proceeding, in order to corruptly influence the testimony of that witness. (7) On or about January 21, 23, and 26, 1998, William Jefferson Clinton made false and misleading statements to potential witnesses in a Federal grand jury proceeding in order to corruptly influence the testimony of those witnesses. The false and misleading statements made by William Jefferson Clinton were repeated by the witnesses to the grand jury, causing the grand jury to receive false and misleading information. In all of this, William Jefferson Clinton has undermined the integrity of his office, has brought disrepute on the Presidency, has betrayed his trust as President, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the United States. Wherefore, William Jefferson Clinton, by such conduct, warrants impeachment and trial, and removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States."

Federal obstruction of justice law and relevant cases. 18 U.S.C. 1503 punishes "whoever . . . corruptly . . . influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice." To establish a violation of section 1503, the Fifth Circuit ruled: "there must be a pending judicial proceeding; the defendant must have knowledge or notice of that proceeding; and the defendant must have acted corruptly with the specific intent to obstruct or impede the proceeding" (*United States v. Williams*). 18 U.S.C. 1512 prohibits the use or attempted use of corrupt persuasion or misleading conduct with the intent of influencing, delaying, or preventing testimony in an official proceeding, causing a person to withhold testimony or documentary evidence, alter or destroy physical evidence, evade legal process, or be absent from an official proceeding to which such person has been legally summoned. The statute states that "an official proceeding need not be pending at the time of the offense." *In United States v. Rodolitz,* the Second Circuit stated that "the most obvious example of a section 1512 violation may be the situation where a defendant tells a potential witness a false story as if the story were true, intending that the witness believe the story and testify to it before the grand jury."

NOTE: A two-thirds majority vote of those Senators present and voting is required to convict on an article of impeachment. Conviction on an article of impeachment results in the convicted party being removed from office and banned from holding future office. The Senate voted on the perjury article (see vote No. 17) immediately before voting on this article.

Debate on the articles was held in closed session. However, the Senate had earlier agreed to a motion to permit each Senator to place into the Congressional Record any statement he or she made during closed-session, final deliberations on the articles, and a majority of Senators exercised that option. Any colloquies or references to statements made by other Senators would require the consent of all the Senators involved before they could be placed into the Congressional Record. The arguments of the House Managers and of the President's lawyers were expressed in those statements, as were additional views. The articles were debated concurrently, and the views expressed on process and constitutional issues were the same for both articles.

For a chronology of events and testimony, see vote No. 17.

Those favoring conviction on both articles contended:

President Clinton is guilty of both perjury and obstruction of justice. By committing those serious felonies he has debased the presidency and undermined the rule of law. If he is allowed to stay in office our constitutional form of government will be seriously damaged. The presidency will be forever weakened if it is affirmed that a felon who has obstructed justice and committed perjury is fit to serve. The Senate will discard its constitutional responsibility to protect the republic from an unfit President if it commits this horrendous act of jury nullification. The most damage, if the President is acquitted, will be to the judiciary, because allowing Clinton to remain President will violate the principle of equal treatment under the law. That principle is the most basic requirement of any free society. History has shown that, as countries move from tyranny to freedom, equal treatment under the law is the first, indispensable right that must be secured. Equal treatment under the law is more fundamental to a democracy than the right to vote, the right of free speech, or any other democratic or human right. The corrosive effect on the very foundation of our country that will come from acquitting the President will be immense and it will be lasting.

The fact that President Clinton lies is axiomatic. He is perhaps the last person in America who might deny it. Over the past 6 years, in matters great and small, the President has lied to Members and he has lied to the American people. Members of both parties have had great frustrations in dealing with this President because it has been impossible to trust him. The only constant has been that he has always acted in his own personal interests as he has seen them at each given moment, regardless of any past actions, statements, or promises he may have made. The fact that there have been constant allegations of infidelity against this President is well known. Most Americans, with reason, believe that President Clinton has a long history of adultery, including with subordinates.

However, Congress never considered articles of impeachment based on the President's lies, nor did it ever consider them based on his alleged infidelities, because his lies and infidelities were not impeachable offenses. Articles of impeachment were not considered and were not approved until President Clinton crossed the line by committing the extremely grave, public, and impeachable crimes of perjury and obstruction of justice. In doing so, he trammeled the constitutional rights of a woman who alleged that he was guilty of sexual harassment. In doing so, he was not even pursuing some high-minded principle that a Machiavellian might say excused his subversion of the legal system. He was not putting the American people first, or protecting his family, or even helping his political party.

No, his interest, as always, was himself.

The facts of the case are straightforward and well known to all Senators. President Clinton engaged in a lengthy, calculated plan to obstruct justice in the *Jones* sexual harassment case against him and in the OIC's grand jury investigation of that obstruction of justice. The *Jones* court had ruled that he had to provide information regarding his sexual relations with subordinate employees. He had had a sexual relationship with a young employee, Ms. Lewinsky. He illegally tried to conceal that relationship from the *Jones* court, both with his own perjurious testimony and with a series of actions he took in order to secure a false affidavit from Ms. Lewinsky. The OIC was given proof of the false nature of Ms. Lewinsky's affidavit and began to negotiate an immunity deal with Ms. Lewinsky. In response, the President began a months-long campaign to slander Ms. Lewinsky and to obstruct justice in the OIC's investigation by giving false information to aides whom the President knew would be called to testify. That campaign would likely have succeeded except that when Ms. Lewinsky finally reached an immunity agreement she revealed that she had possession of a dress with a stain from the President that proved the sexual nature of their relationship. The President then agreed to testify before the OIC grand jury. He started his testimony with a statement that was perjurious in many respects. That statement tacitly admitted the bare minimum that he knew he could no longer deny--that she had performed a particular sex act on him. In a tortured reading of the definition of sexual relations that was used in the *Jones* case, he then concluded that Ms. Lewinsky had had sex with him but he had not had sex with her. His testimony was quite obviously a last-minute lie that he was forced to concoct based on the undeniable DNA evidence. He also committed perjury by denying or claiming a loss of memory about numerous efforts he made to obstruct justice by telling his aides lies that he knew or hoped they would repeat to the grand jury.

The President's lawyers offered a 6-prong defense of the President when confronted with this evidence. First, they claimed that the facts were not proven. They contended that Senators should embrace what we call a theory of "immaculate obstruction" in which jobs were found, gifts were concealed, false affidavits were filed, and the character of a witness was publicly impugned, all without the knowledge or direction of the President, who was the sole beneficiary of these actions. They further asserted that we should believe that the President was telling the truth, the whole truth, and nothing but the truth when DNA evidence forced him into the bizarre claim that in his interpretation Ms. Lewinsky had sex with him but he never had sex with her, and when he said that he was trying to "refresh" his memory when he twice told a pack of lies to his secretary, whom he knew would likely be called to testify. They also made much of the fact that most of the evidence was circumstantial, as though the direct denials of witnesses who were trying to protect the President somehow made the damning circumstantial evidence they reluctantly gave less rather than more compelling. Frankly, their arguments were beyond all credulity. Every Senator has to know by now that the President is guilty as charged. The explanations are strained beyond belief, and the descriptions of the President's testimony as being misleading, maddening, and otherwise clearly flawed, but technically not perjury are not exculpatory even if believed. The President's actions cannot be defended by dancing on the pin head of legal technicality.

The second and third prongs of the President's defense alleged that the articles were too vague and that each article unconstitutionally allowed a guilty verdict based on a finding that the President had committed one or more of several listed charges. The House Managers rejected both of those defenses, and we generally agree with the arguments they presented. The articles are not vague because the record is complete. As a practical matter they do not list every perjurious statement and every act of obstruction of justice because those statements and those acts are so numerous. Nevertheless, every Member has been able to read every word of the evidence used in the case, and to view every piece of videotaped evidence. Further, every Member has listened to the House Managers and the President's lawyers argue in minute detail over every tiny aspect of the evidence. Both sides clearly understood exactly which actions, statements, and patterns formed the basis for the articles of impeachment. We also reject the charge relating to multiple counts. The form of those articles was copied directly from the articles of impeachment against former President Nixon. Those articles also permitted conviction based upon a determination of guilt on one or more charges in individual articles. The logic behind the formulation of each of the articles in this case is that if Members agree that the President committed perjury, or if they agree that he committed obstruction of justice, either one of those beliefs gives sufficient cause to convict him. The President's lawyers argued that if 50 Senators voted to convict on one count in an article, and that if the other 50 Senators voted to convict on a different count in that same article, then the President would be unconstitutionally removed because two-thirds of the Senate would not have found him guilty of the same count. This defense is like arguing that a criminal charged with murder should not be convicted if half of the jurors think he killed his victim with a baseball bat and the other half believe he used a stick. If two-thirds of Senators believe that the President is unfit to remain in office because he has committed perjury, or if two-thirds of Senators believe that he is unfit to remain in office because he has obstructed justice, then he should be removed.

The fourth prong of the President's defense is that the charges do not rise to the level of high crimes and misdemeanors. As a theoretical matter, separate from the President's case, there was actually some agreement between the President's lawyers and the House Managers on what constitutes an impeachable offense, and even more agreement among Members. In general, to be impeachable, both sides argued that an offense must be political, meaning that it must cause harm to our system of government, and that the harm must be significant. The President's lawyers argued that actions unrelated to public duties were not impeachable; the House Managers disagreed, as do we, and as do most of the Senators who decided to vote for acquittal. The overwhelming view among Senators both for and against impeachment is that a crime unrelated to official responsibilities rises to the level of an impeachable offense if it poses significant harm to our system of government.

We emphatically affirm that the President's actions meet that standard. The first Chief Justice of the Supreme Court, John Jay,

described the seriousness of perjury thusly: "There is no Crime more pernicious to Society. It discolours and poisons the Streams of Justice, and by substituting Falsehood for Truth, saps the Foundations of personal and public rights . . . Testimony is given under solemn obligations which an appeal to the God of Truth impose; and if oaths should cases to be held sacred, our dearest and most valuable Rights would become insecure." Obstruction of justice is perjury's twin because it has the same purpose--to keep the truth from a court. Everyone, regardless of his or her opinion of the merits of a case (opposing sides in civil suits usually are convinced of the rightness of their opposite causes), has a fundamental and unbendable duty to tell the truth. Perjury before a grand jury and obstruction of justice are offenses against the American system of government, as they strike at the rule of law itself. These acts subvert the truth-seeking process that is the very essence and foundation of the judicial branch. In this case, the President's perjury was even more serious because it was meant to thwart an investigation into whether he committed impeachable offenses. A vote to acquit the President is a vote in favor of the proposition that a man who is guilty of undermining the rule of law is fit to serve as President. The Senate has impeached judges for these very crimes. Hundreds of people have been convicted and sent to jail for committing these very crimes. Federal officials have been fired and prosecuted for these very crimes, and officers and soldiers have been court-martialed. It is true the President could be sent to jail later. How does that validate his right to appoint judges and be head of U.S. law enforcement now? How does that square with his leadership of the armed forces right now, as our Commander-in-Chief? Should the standard for the President not be at least as high as for those he appoints and leads? We cannot allow one standard for the President and another for everyone else. The law is king, not the President.

The fifth prong of the President's defense is that the case against him is partisan. While it is true that the President has had his ardent detractors, it is also true that he has had his blind apologists, including in Congress. Partisanship for or against the President, of course, has nothing to do with whether he is guilty or innocent. If the President had not committed impeachable offenses we would not be considering these articles now. Further, we are appalled that a few Senators have complained that the President would never have been caught committing these acts if Paula Jones had not had the help of a few skilled attorneys. Millions of Americans, with some justification, believe that America now has one form of justice for the rich and powerful, who can hire expensive lawyers adept at twisting the law so their guilty clients can escape punishment, and another form of justice for everyone else (who had better hope they never have to face a rich or powerful person in court). The President and his minions are upset that they were unable to abuse the legal process to deny Paula Jones her legal rights. We say that the fact that Paula Jones had a few expert lawyers helping her gave her the fair chance in court she deserved to pursue her case against the President.

Senators should put the country ahead of party loyalty by deciding on the merits, not the process. Senate Republicans have done so in the past. President Nixon resigned after Senate Republicans told him that they were not going to defend him out of party loyalty, and even more recently they took action against a fellow Republican Senator, forcing him to resign. In both those cases the charges were being pursued with partisan fervor by Democrats. The question before the Senate now is not whether the process has been partisan, but whether Democratic Senators can rise above partisanship, as Republicans have before them.

The sixth and final prong of the President's defense is that he should not be removed from office because opinion polls show that a majority of Americans oppose that result (of course, they never mention that opinion polls also show that 84 percent of Americans believe he is guilty of both obstruction of justice and perjury, and that a strong majority of Americans, including most Democrats, believe that he is a moral reprobate). In response, we are offended by this defense. No Kabuki dance around the technicalities of the law will remove the fact that everyone knows he is guilty. If we refuse to convict, we will be committing an act of jury nullification. The Senate was created as an institution to shield the country from the tides of popular passion. Senators were given longer terms in office so that they could represent what they perceived to be the longer-term interests of the country, even if those positions offended the transient passions of the moment. The Founding Fathers well understood that impeachment articles could reach the Senate that were unfounded but that were popularly supported because the President was disliked, and they also understood that impeachment articles that were fully justified could end up in the Senate with little popular support. In both cases, the Founding Fathers intended for Senators to do what was right rather than what was popular. We submit that a vote to do what is popular rather than what is right is equivalent to ceding our constitutional responsibility. Nothing in the Constitution allows the Senate to refuse to convict if it finds that the facts support the articles, and the articles allege high crimes.

The precedent set by this case may not change the law overnight, but this unforgettable episode is now part of the institutional life of our country. The chief magistrate perverted justice and remained in power. The lesson is corrosive. Like water dripping on a rock, it will eventually make a deep hollow in the American justice system. One letter we received from a middle-school principal speaks volumes. At an assembly to mark the new school year, a video entitled "Attitude is Everything" was presented to the student body. The video was all about American heroes--college athletes, Olympic medalists, astronauts and world leaders. Logically, the video also included President Clinton. The school principal wrote that when the President's picture appeared, the entire student body--ages 11 to 14--laughed.

We have lost many things over the past few months: trust in public officials, respect for the rule of law, confidence in the truth of the White House's public statements. But perhaps the most tragic loss has been the steady erosion of our societal standards. It is hard to imagine that a generation or two ago, a majority of Americans would have greeted news of Presidential crimes and cover-ups with a shrug. We did not expect our leaders to be perfect, but we did expect them to provide moral leadership, and to obey the laws they were charged with upholding and executing. We expected Presidents to commit sins; but we would not allow them to commit crimes. We held the Office of the Presidency, and the honor of the nation, in the highest esteem.

If we are to believe the media, much of our reluctance to enforce the laws of our land springs from our material concerns. We have heard, from many quarters, the assertion that things are good in America, we are at peace, the stock market is doing well, so why shake things up? We seem to have forgotten that all of our prosperity would be impossible without the rule of law, and without a cultural predisposition to honor and uphold the law. Reducing the administration of justice to opinion polls debases our country. Putting pocketbook concerns over standards of right and wrong impoverishes our culture. If we do not sustain the moral and legal foundation on which our system of government and our prosperity is based, both will surely and steadily diminish, and America will become a fundamentally unprincipled nation. That danger, whether ultimately realized or defeated, will be President Clinton's enduring and pestilent legacy.

Those favoring conviction on article II and opposing conviction on article I contended:

We favor conviction on the obstruction of justice and witness tampering charges, but we have several reasons for opposing conviction on the perjury charges. At the outset, we affirm that the President is clearly guilty of both perjury and obstruction of justice. However, not all of the perjury charges have been proven, and we find compelling the argument that it is unconstitutional to find a President guilty of one or more offenses within a single article. Further, we note that the strongest elements of the perjury article, such as the President's comments regarding the false statements he made to his secretary, are also part of the obstruction of justice article. The construction of the obstruction of justice article is less offensive to us because we believe that all of its components have been proven. After reviewing all of the evidence and constitutional law, we have come to the conclusion that the President has obstructed justice, that in so doing he has committed impeachable offenses, and that constitutionally we are required to convict and remove from office any President who commits impeachable offenses.

Those opposing conviction on both articles contended:

Argument 1:

The President should be acquitted. Before explaining why, we must affirm that acquittal should not be equated with exoneration. The vast majority of us who have decided to vote against the articles of impeachment are thoroughly disgusted with the actions of President Clinton. His behavior was reprehensible, wrong, reckless, immoral, embarrassing, indefensible, and disgraceful. His deception was calculated, politically motivated, and directed at each and every one of us. The sum of our opinions, our findings of fact, and our legal briefs cannot sum up the deep disquiet that we feel about the failings, lies, and weakness displayed by the President. Under the cold body of evidence before us runs the bad blood of bad character, and that deeply disturbs us.

Two other points need to be made before discussing why we favor acquittal. First, those Senators who have argued for conviction are right when they say that we should not base our votes upon public opinion polls. People vote for presidential candidates based on their opinions of those candidates. Public opinion is thus the standard used for electing Presidents. However, the Constitution does not use that standard for removing a President. It does not say that the Senate should convict a president on an article of impeachment if an opinion poll says that president is unpopular. Rather, it requires removal if a President is found guilty of treason, bribery, or other high crimes or misdemeanors. Second, many, though not all, of us believe that a censure resolution should be considered. On this point many Members both for and against conviction are in agreement. Unfortunately, it appears that a determined minority of Senators will be successful in blocking such a resolution from being voted upon.

We will vote to acquit for several reasons, starting with the fact that the articles were not proven. Even if they were proven, though, most of us would still oppose conviction because we believe that they are unconstitutionally drawn. Further, even if they were constitutionally drawn, we still would oppose conviction because we believe that they allege private illegal acts that are not impeachable offenses.

The President's counsel, step by step, went over each allegation and showed how the circumstantial evidence presented by the House Managers could have innocent explanations. For instance, they pointed out that the only basis for the House Managers' claim that the President told his secretary to conceal the gifts he gave to Ms. Lewinsky was that Ms. Lewinsky testified that she asked him if she should hide the gifts and he was unresponsive, and that she said Ms. Currie shortly thereafter called her about the gifts and came to pick them up. On the other side, we have the denials by the President and Ms. Currie that he ever asked her to hide the gifts, and we have Ms. Lewinsky's testimony that she had decided to hide the gifts before she spoke to the President about them. Not only does this evidence not meet the "beyond a reasonable doubt" standard, some of us do not even think it meets the "preponderance" standard. Some of us who oppose conviction are convinced that the evidence presented on all the charges was weak. Others of us very nearly had to conclude that the President was guilty beyond a reasonable doubt on a few of the charges, particularly in the obstruction of justice article. In the end, though, we agreed that the reasonable doubt standard had not been met on any charge.

On process grounds, any court in the country would throw out indictments that were worded like these articles. We concede that this is a political rather than a criminal proceeding, and we concede that the primary concern must be to defend the national interests over any personal interests of the President. However, it is still grossly unfair to the President's due process rights to issue such vague indictments. Further, if convicted, the charges should at least be clear enough for the American people to understand why the President

has been removed from office. The charging of multiple counts in a single article is even more disturbing, and we believe blatantly unconstitutional. Article II, for instance, charges 7 general offenses. Conceivably, each of those charges could garner the support of just 10 Senators, and then the total of 70 Senators, each voting for a separate charge, would be enough to reach the constitutional majority of two-thirds required to convict. In reality, though, no more than 10 percent of Senators would have found him guilty of the same offense. A conviction on that basis would seriously weaken the power of the presidency.

Even if the articles were proven, and even if they were correctly drafted, we would still vote to acquit the President. Though many Members would like to deny it, the fact is that it is impossible to view the alleged crimes out of the context in which they occurred. The President was being pursued in a civil lawsuit that he believed, rightly or wrongly, was politically motivated. At the same time, he was engaged in an improper relationship with a young employee that he understandably did not want to become public. In connection with that suit, the civil court eventually ruled that he was required to disclose any sexual relationships that he had had with subordinate employees, and he was required to testify in the case. He complied, but he gave evasive, misleading, and non-responsive answers, first before the Federal civil court and later before the grand jury, because he thought that the case was politically motivated and that the information would be leaked to the press. Our colleagues may not like that the President was evasive, misleading, and non-responsive, but as long as he told the truth he was staying within the limits of the law. The evidence does not show that he undertook a blatant and concerted effort to commit perjury and obstruct justice; if anything, it shows that he attempted to skirt the laws, and that the worst interpretation is that he went too far in a few of his efforts. We agree with our colleagues that in some cases private actions

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